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AUG 24 2006

OFFICE OF PETITIONS

In re Application of :
R. Edward Winters :
Application No. 09/846,565 : DECISION GRANTING PETITION
Filed: April 27, 2001 : UNDER 37 CFR 1.137(b)
For: LOW PROFILE EXPANDABLE HOOP :
SUPPORT DEVICE FOR FLEXIBLE TUBES :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 11, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 12, 2003. A Notice of Abandonment was mailed on September 23, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal (and fee); (2) the \$750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of

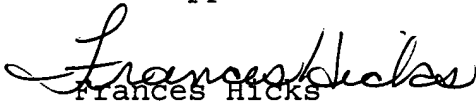
March 11, 2003 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

As authorized, the small entity \$750 petition fee and \$250 Notice of Appeal fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being forwarded to Technology Center AU 3738.


Frances Hicks
Petitions Examiner
Office of Petitions